HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 19438 OF 2006

DATED: 20-9 2006

Between:
K.Kameswara Rao

… Petitioners

and

The Secretary to the Government
Government of A.P. (Land Acquisition)
Secretariat, Hyderabad and other s … Respondents

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ORAL ORDER:

The grievance urged in this writ petition is that the 2nd respondent has issued notice dated –nil-- under Section 9(3) and 10 of the Land Acquisition Act, 1894 (for short 'the Act') directing the petitioner to appear in person on 20-09-2006 to explain the nature of his interest in the lands in an extent of Ac.2-00 gts., in survey No.321 of Vegivaripalem, Razole mandal, East Godavari district.

The allegation of the petitioner is that his land is sought to be acquired without issuance of a notification under Section 4(1) of the Act, without holding an enquiry under Sections 5-A and without a declaration under section 6 of the Act.

The impugned notice discloses that the acquisition is for the purpose of allotment of house-sites to weaker sections under a scheme popularly known as INDIRAMMA Programme.

The petitioner contended that on making enquiry in the offices of respondent Nos. 3 and 4, orally it was stated that a notice under Section 6 of the Act was published on 25-07-2006 stating that his land to the extent of Ac.2-00 is proposed to be acquired by the government for public purpose.

It is alleged that no personal notice was served on the petitioner either by the respondents or any other government official intimating the need for acquisition of the land.

This requirement of acquisition in this case is not of such an emergent nature. The enquiry under Section 5-A of the Act is a salutary statutory provision intended for affording a reasonable opportunity to the owners of lands to object to the acquisition on any relevant grounds as they wish to submit.

In the aforesaid circumstances, the decision in the impugned notification dated –nil- to conduct an inquiry under Section 9 (3) and 10 of the Act without publishing notification under Section 4(1) and 6 of the Act and without invoking the urgency clause and dispensing with the enquiry under Section 5-A of the Act is declared irrational and unsustainable.

The respondents are directed to issue notice to the petitioner for submission of objections if any to the proposal to acquire the lands. On the petitioner submitting his objections within the time stipulated in the notice, the same shall be considered and an appropriate decision taken duly communicating the decision of the appropriate Government/District Collector under Section 5 (A) (2) of the Act. The petitioner shall not be

dispossessed pending communication of the decision to the petitioner consequent on the enquiry under Section 5-A of the Act. The notice under Section 9(3) and 10 of the Act date – nil-- is quashed.

The writ petition is disposed of as above at the stage of admission, after hearing the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition. There shall however be no order as to costs.

GODA RAGHURAM, J

Date: 20.9.2006
TVK

24

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